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As Requested	For Correction	Prepare Reply
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REMARKS

Attached is a copy of the
 Identities Protection Act & news-
 paper articles of the time. I
 suggest you call [redacted]
 in OGC if you have any
 questions. I understand he
 wrote the act.

STAT

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PUBLIC LAW 97-200—JUNE 23, 1980

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INTELLIGENCE IDENTITIES PROTECTION
ACT OF 1982

96 STAT. 122

PUBLIC LAW 97-200—JUNE 23, 1982

Public Law 97-200
97th Congress

An Act

June 23, 1982
[H.R. 4]

To amend the National Security Act of 1947 to prohibit the unauthorized disclosure of information identifying certain United States intelligence officers, agents, informants, and sources.

Intelligence
Identities
Protection Act
1982
50 USC 401 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intelligence Identities Protection Act of 1982".

SEC. 2. (a) The National Security Act of 1947 is amended by adding at the end thereof the following new title:

"TITLE VI—PROTECTION OF CERTAIN NATIONAL SECURITY
INFORMATION

"PROTECTION OF IDENTITIES OF CERTAIN UNITED STATES UNDERCOVER
INTELLIGENCE OFFICERS, AGENTS, INFORMANTS, AND SOURCES

50 USC 421.

"Sec. 601. (a) Whoever, having or having had authorized access to classified information that identifies a covert agent, intentionally discloses any information identifying such covert agent to any individual not authorized to receive classified information, knowing that the information disclosed so identifies such covert agent and that the United States is taking affirmative measures to conceal such covert agent's intelligence relationship to the United States, shall be fined not more than \$50,000 or imprisoned not more than ten years, or both.

"(b) Whoever, as a result of having authorized access to classified information, learns the identity of a covert agent and intentionally discloses any information identifying such covert agent to any individual not authorized to receive classified information, knowing that the information disclosed so identifies such covert agent and that the United States is taking affirmative measures to conceal such covert agent's intelligence relationship to the United States, shall be fined not more than \$25,000 or imprisoned not more than five years, or both.

"(c) Whoever, in the course of a pattern of activities intended to identify and expose covert agents and with reason to believe that such activities would impair or impede the foreign intelligence activities of the United States, discloses any information that identifies an individual as a covert agent to any individual not authorized to receive classified information, knowing that the information disclosed so identifies such individual and that the United States is taking affirmative measures to conceal such individual's classified intelligence relationship to the United States, shall be fined not more than \$15,000 or imprisoned not more than three years, or both.

"DEFENSES AND EXCEPTIONS

50 USC 422.

"Sec. 602. (a) It is a defense to a prosecution under section 601 that before the commission of the offense with which the defendant

PUBLIC LAW 97-200—JUNE 23, 1982

96 STAT.

is charged, the United States had publicly acknowledged or revealed the intelligence relationship to the United States of the individual the disclosure of whose intelligence relationship to the United States is the basis for the prosecution.

"(b)(1) Subject to paragraph (2), no person other than a person committing an offense under section 601 shall be subject to prosecution under such section by virtue of section 2 or 4 of title 18, United States Code, or shall be subject to prosecution for conspiracy to commit an offense under such section.

"(2) Paragraph (1) shall not apply (A) in the case of a person who acted in the course of a pattern of activities intended to identify and expose covert agents and with reason to believe that such activities would impair or impede the foreign intelligence activities of the United States, or (B) in the case of a person who has authorized access to classified information.

"(c) It shall not be an offense under section 601 to transmit information described in such section directly to the Select Committee on Intelligence of the Senate or to the Permanent Select Committee on Intelligence of the House of Representatives.

"(d) It shall not be an offense under section 601 for an individual to disclose information that solely identifies himself as a covert agent.

"REPORT

"Sec. 603. (a) The President, after receiving information from the Director of Central Intelligence, shall submit to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives an annual report on measures to protect the identities of covert agents, and on any other matter relevant to the protection of the identities of covert agents.

"(b) The report described in subsection (a) shall be exempt from any requirement for publication or disclosure. The first such report shall be submitted no later than February 1, 1983.

"EXTRATERRITORIAL JURISDICTION

"Sec. 604. There is jurisdiction over an offense under section 601 committed outside the United States if the individual committing the offense is a citizen of the United States or an alien lawfully admitted to the United States for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act).

"PROVIDING INFORMATION TO CONGRESS

"Sec. 605. Nothing in this title may be construed as authority to withhold information from the Congress or from a committee of either House of Congress.

"DEFINITIONS

"Sec. 606. For the purposes of this title:

"(1) The term 'classified information' means information or material designated and clearly marked or clearly represented, by Executive order or a

Information
transmitted
congressional
committees.

50 USC 423

50 USC 424

8 USC 1101

50 USC 425

50 USC 426

PUBLIC LAW 97-200—JUNE 23, 1982

PUBLIC LAW 97-200—JUNE 23, 19

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order), as requiring a specific degree of protection against unauthorized disclosure for reasons of national security.

"(2) The term 'authorized', when used with respect to access to classified information, means having authority, right, or permission pursuant to the provisions of a statute, Executive order, directive of the head of any department or agency engaged in foreign intelligence or counterintelligence activities, order of any United States court, or provisions of any Rule of the House of Representatives or resolution of the Senate which assigns responsibility within the respective House of Congress for the oversight of intelligence activities.

"(3) The term 'disclose' means to communicate, provide, impart, transmit, transfer, convey, publish, or otherwise make available.

"(4) The term 'covert agent' means—

"(A) an officer or employee of an intelligence agency or a member of the Armed Forces assigned to duty with an intelligence agency—

"(i) whose identity as such an officer, employee, or member is classified information, and

"(ii) who is serving outside the United States or has within the last five years served outside the United States; or

"(B) a United States citizen whose intelligence relationship to the United States is classified information; and—

"(i) who resides and acts outside the United States as an agent of, or informant or source of operational assistance to, an intelligence agency, or

"(ii) who is at the time of the disclosure acting as an agent of, or informant to, the foreign counterintelligence or foreign counterterrorism components of the Federal Bureau of Investigation; or

"(C) an individual, other than a United States citizen, whose past or present intelligence relationship to the United States is classified information and who is a present or former agent of, or a present or former informant or source of operational assistance to, an intelligence agency.

"(5) The term 'intelligence agency' means the Central Intelligence Agency, a foreign intelligence component of the Department of Defense, or the foreign counterintelligence or foreign counterterrorism components of the Federal Bureau of Investigation.

"(6) The term 'informant' means any individual who furnishes information to an intelligence agency in the course of a confidential relationship protecting the identity of such individual from public disclosure.

"(7) The terms 'officer' and 'employee' have the meanings given such terms by section 2104 and 2105, respectively, of title 5, United States Code.

"(8) The term 'Armed Forces' means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

"(9) The term 'United States', when used in a geographic sense, means all areas under the territorial sovereignty of the United States and the Trust Territory of the Pacific Islands.

"(10) The term 'pattern of activities' requires a series of acts with a common purpose or objective."

(b) The table of contents at the beginning of such Act is amended by adding at the end thereof the following:

"TITLE VI—PROTECTION OF CERTAIN NATIONAL SECURITY INFORMATION

"Sec. 601. Protection of identities of certain United States undercover intelligence officers, agents, informants, and sources.

"Sec. 602. Defenses and exceptions.

"Sec. 603. Report.

"Sec. 604. Extraterritorial jurisdiction.

"Sec. 605. Providing information to Congress.

"Sec. 606. Definitions."

Approved June 23, 1982.

LEGISLATIVE HISTORY—H.R. 4 (S. 391):

HOUSE REPORTS: No. 97-221 (Comm. on Intelligence) and No. 97-580 (Comm. on Conference).

SENATE REPORT No. 97-201 accompanying S. 391 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 127 (1981): Sept. 23, considered and passed House.

Vol. 128 (1982): Feb. 25, Mar. 1, 15-17, S. 391 considered in Senate.

Mar. 18, H.R. 4 considered and passed Senate, amended.

June 2, 3, House considered and agreed to conference report.

June 10, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 18, No. 25 (1982): June 23, Presidential statement.

ARTICLE APPEARED
ON PAGE 2

THE CHRISTIAN SCIENCE MONITOR
4 June 1982

**House OKs bill to protect
US intelligence agents**

Washington

The House passed a bill to make exposure of US intelligence agents a crime. The bill was approved Thursday, 315 to 32, and sent to the Senate.

Under the bill, any US official who exposed secret information identifying agents would be subject to a \$50,000 fine and 10 years in jail.

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WASHINGTON POST
4 JUNE 1982

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House Passes Bill to Make Identifying a Secret Agent a Crime

By George Lardner Jr.
Washington Post Staff Writer

The House gave final approval yesterday to a bill making it a crime to disclose the names of U.S. intelligence agents but wrapped it up with a controversial conference report intended to make it apply only in limited circumstances.

Opponents of the measure such as Rep. Don Edwards (D-Calif.) protested that it was still unconstitutional.

Advocates of a crackdown on unauthorized revelations such as Rep. Henry J. Hyde (R-Ill.) complained at the same time that the conference report made too many concessions and said they hoped the courts would ignore it.

The vote on final passage was 315 to 2. All of the nays came from Democrats.

The bill, under any interpretation, would for the first time in American history make it a crime to publish information even when obtained from public records.

Passage is expected in the Senate next week.

The chief architect of the conference report, House Intelligence Committee Chairman Edward P. Boland (D-Mass.), said it was drafted to make clear that Congress wants "to criminalize the wholesale exposure of intelligence operatives while treading as lightly as possible upon the First Amendment."

But Hyde and others were quick to point out that the bill itself can be read quite differently. Rep. C. W. Bill Young (R-Fla.) said he feared the conference report, which both he and Hyde refused to sign, was "an effort to water down or dilute the effectiveness of the legislation. . . ."

Under the bill, past or present

government employees who have had access to classified information would receive the stiffest penalties for conviction of unauthorized disclosures: 10 years in prison and a \$50,000 fine.

But the crucial section, the one that has held up passage for more than two years now, would cover anyone outside the government who acts "in the course of a pattern of activities intended to identify and expose covert agents and with reason to believe that such activities would impair or impede the intelligence activities of the United States." *intel*

Those indicted and convicted under this clause would face three years in prison and a \$15,000 fine.

The clamor for the bill grew out of the practices of CIA renegade Philip Agee and publications such as the Covert Action Information Bulletin which regularly published the names of CIA officers stationed overseas with the avowed aim of destroying their effectiveness.

But there have been widespread complaints from news organizations and other groups, especially in light of the broad-gauged "reason to believe" clause, that the measure would also criminalize news stories aimed at disclosing illegal or improper intelligence operations and would stifle the publication of many legitimate articles.

The conference report, which was hammered out last month after a meeting between Boland and the bill's key Senate sponsor, John H. Chafee (R-R.I.), represented an attempt to lay those fears to rest. Boland repeatedly described it in floor debate as "the authoritative statement" as to the meaning of the statute and he made plain that he regarded it as essential to the bill's

constitutionality. The report reaffirmed the rule that "the actual information disclosed does not have to be classified" for journalists or anyone else to run afoul of the law. The identities of CIA officers assigned to American embassies overseas frequently can be gleaned from public records such as old editions of the State Department's Biographic Register.

But the conferees emphasized that criminal penalties for outsiders were to be applied "only in very limited circumstances to deter those who make it their business to ferret out and publish the identities of agents." *definition may be change*

The law, they continued, "does not affect the First Amendment rights of those who disclose the identities of agents as an integral part of another enterprise such as news media reporting of intelligence failures or abuses, academic studies of U.S. government policies and programs, or a private organization's enforcement of its internal rules."

In addition, the report said, the proscribed "pattern of activities" must involve "a substantial effort to ferret out names which the government is seeking to keep secret" and amount to an "intentional 'blowing' of intelligence identities."

Thus, the report said, a newspaper investigation of the possible CIA connections of the Watergate burglars or a scholarly inquiry into the Phoenix program in Vietnam would not be covered because they would not amount to intentional efforts "to identify and expose covert agents."

Hyde and several other Republicans took some comfort in the fact that the conference report also said a defendant's claim of a good intent "additional to the intent to identify and expose" will not absolve him from guilt. But they made no secret of their overall disappointment.

"I urge the courts to consign the statement of the managers to the

oblivion it deserves," Hyde said of the report. 2

Boland replied that where "the bill lacks clarity as it does," such a statement was clearly in order. He said he hoped the courts would appreciate it "since it is the official explanation provided to, and adopted by each house."

Edwards and House Judiciary Committee Chairman Peter W. Rodino Jr. (D-N.J.) also refused to sign the report, but for different reasons. "No amount of tinkering, either with the statutory language itself or with the report, can render this bill constitutional," Edwards protested, "as long as it seeks to criminalize publication of unclassified information or information already in the public domain."

The bill adopted yesterday covers active intelligence officers, agents, informants and "sources of operational assistance" and abandons a provision approved by the House last fall to cover former operatives as well.

ARTICLE APPEARED
ON PAGE 6WALL STREET JOURNAL
4 JUNE 1982

House Approves Stiff Prison Terms, Fines For Publicly Naming Covert U.S. Agents

By a WALL STREET JOURNAL Staff Reporter

WASHINGTON—The House overwhelmingly approved stiff prison sentences and fines for publicly identifying covert U.S. intelligence agents or informants.

The legislation, opposed by many press organizations as an infringement of First Amendment guarantees, is a compromise between House and Senate versions. Yesterday's 315 to 32 House vote sends the bill back to the Senate, where final approval is expected soon.

The House-passed measure authorizes penalties up to 10 years in prison and \$50,000 in fines for those guilty of "a pattern of activities" to expose covert agents and with "a reason to believe" that the activities would

"impair or impede" U.S. foreign intelligence activities.

Proponents said the legislation isn't aimed at newspaper and television correspondents, but at individuals or organizations that consistently name agents for the purpose of damaging U.S. intelligence-gathering activities. Proponents said the legal formula wouldn't apply to correspondents who merely reprinted information in the public domain or exposed an agent as an incidental part of an article or television news show. Moreover, proponents said, correspondents wouldn't be liable if disclosure of an agent's identity was merely the side effect of a broader journalistic intent—for example, an investigation into a controversial counterinsurgency program abroad.

But opponents maintained the law will have a chilling effect on journalistic investigation and said a court test of its constitutionality is certain.

The legislation was sparked in part by the case of former CIA agent Philip Agee, who wrote a book disclosing the names of former agents. Nevertheless, the compromise language, adopting the narrower Senate definition of "covert agent," excludes former agents or informants.

The measure protects agents or informers abroad who work for the Central Intelligence Agency, various defense intelligence agencies or Federal Bureau of Investigation counterintelligence or counterterrorism operations. It says it isn't a crime for these individuals to identify themselves as covert agents, as long as they don't identify other agents as well.

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WASHINGTON TIMES
4 JUNE 1982

House votes to protect secret agents' identity

By Thomas D. Brandt
WASHINGTON TIMES STAFF

A bill that would make it a crime to disclose the identity of U.S. secret agents, even if the information came from unclassified sources such as a public library, passed the House of Representatives yesterday by a 315-32 vote.

The legislation in its original form was first introduced in Congress in 1975, the year the CIA station chief in Athens, Richard Welch, was murdered several months after he was identified in a magazine.

The bill is intended to stop publications such as "Covert Action Information Bulletin" and "Counterspy" that in the past have been critical of intelligence agencies and have published lists of agents' names and their assignments. The penalty for violation of the new

law would be up to three years in prison, a \$15,000 fine or both.

Even congressmen who supported the bill acknowledged it probably will be tested in the courts to see if it violates the First Amendment to the Constitution, the freedom of speech amendment.

The bill, long supported by the intelligence community, is "treading as lightly as possible" on the First Amendment, said Rep. Edward Boland, D-Mass., chairman of the House Select Committee On Intelligence during floor debate on Wednesday.

Boland said the bill is "not intended to embrace legitimate journalism" and is meant to control those who systematically seek to expose agents.

The bill is H.R. 4, Intelligence Identities Protection Act, and was passed by the House as a conference report. It

is expected to pass the Senate as early as next week and to be signed by the president.

However, even the House conferees were unable to agree on how the bill would be interpreted by the courts, and several conferees openly disagreed with the written "statement of the committee on conference" that accompanied the bill. Judges sometimes will use these statements to help to determine legislative intent when laws are challenged in court.

Rep. Bill Young, R-Fla., an intelligence committee member and a conferee, refused to sign the report and said, "I do not think we ought to take this statement as a conference product or as being approved by the conference committee, for it was not."

Particularly at issue was an amendment to the bill that changed the word "intent" to the broader expression "reason to believe." It is used in the following passage:

"Whoever...intended to identify and expose covert agents and with reason to believe that such activities would impair or impede the foreign intelligence activities of the United States...shall be fined...or imprisoned...."

Rep. Don Edwards, D-Calif., said, "For the first time in American history, the publication of information obtained lawfully from publicly available sources would be made criminal."

Edwards said the bill was part of a new climate in government that has resulted in expanded CIA domestic spying and more information being kept from the public by putting more documents under security classification.

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THE BALTIMORE SUN
4 June 1982

House passes bill to allow jail terms for revealing spies' names

Washington (AP)—The House gave its final approval yesterday to compromise legislation permitting three-year jail terms for journalists or scholars who deliberately expose the identities of American spies.

The vote for the Intelligence Identities Protection Act was 315-32, and the measure now goes to the Senate where final congressional action is almost certain, perhaps next week.

The measure has administration backing and is likely to be signed into law by President Reagan soon after final Senate action.

For seven years, Congress has been attempting to protect American spies from exposure to terrorists, while preserving free press protections of the First Amendment.

Critics predicted that the bill approved by the House would be struck down as unconstitutional in the courts.

"For the first time in American history, the publication of information obtained lawfully from publicly available sources would be made illegal," said Representative Don Edwards (D, Calif.).

A supporter, Representative Henry J. Hyde (R, Ill.), countered: "We often ask our covert agents—and their sources of intelligence—to risk their lives in the national interest. The very least we can do is protect their identities from assassins and terrorists."

In the Maryland delegation, Representatives Michael D. Barnes (D, 8th), Beverly B. Byron (D, 6th), Roy P. Dyson (D, 1st), Clarence D. Long

(D, 2d), Barbara A. Mikulski (D, 3d) and Marjorie S. Holt (R, 4th) voted yes. Representative Parren J. Mitchell (D, 7th) voted no. Representative Steny H. Hoyer (D, 5th) did not vote.

The first legislation was introduced in 1975 after the assassination of Richard Welch, the Central Intelligence Agency station chief in Athens. His name had been published in the magazine *Counter Spy*, published by dissident former CIA official Philip Agee.

A number of similar incidents followed, although there is disagreement about whether terrorist attacks resulted from making agents' identities public.

Both the House and Senate Judiciary Committees approved bills that would have limited prosecution of any journalist or scholar to those who specifically intended to "impair or impede" U.S. intelligence activities.

Both the full House and Senate, however, set a less stringent standard under which a prosecutor would have to demonstrate only that a person had "reason to believe" that identifying U.S. spies would disrupt American intelligence operations.

House members and senators negotiating the final version of the measure attempted to protect legitimate investigative journalists doing stories about the CIA or other intelligence operations.

In a report accompanying the legislation, they said the bill was aimed solely at those "who make it their business to ferret out and publish the identities of agents."

It is not, the report said, designed to shut off "the First Amendment rights of those who disclose the identities of agents as an integral part of another enterprise such as the news media reporting of intelligence failures or abuses."

Efforts by newspapers or churches to identify employees who also work for the CIA would not be subject to prosecution, the report said.

Recent cases about former CIA agents Frank Terpil and Edwin Wilson selling arms to Libya would be similarly exempt, the report said, as would efforts like those to connect the CIA with the 1972 Watergate break-in which led to the resignation of former President Richard M. Nixon.

But critics said that is not enough.

Mr. Edwards, for example, described the bill as part of a new climate of government conduct to operate in greater secrecy to withhold more information from the public, and to punish those who attempt, however lawfully, to pierce this wall of secrecy.

Under the bill, a reporter or scholar could serve up to three years in jail and be fined \$15,000. A government employee who releases the names of spies could be penalized with a jail term of 10 years and a fine of up to \$50,000.

As originally approved by the House, the naming of former agents could result in prosecution as well, but the House-Senate conferees agreed to drop that provision.

PHILADELPHIA INQUIRER
4 JUNE 1982

PHILADELPHIA INQUIRER
4 JUNE 1982

House acts to shield U.S. spies

Backs penalties for identification

By Mike Shanahan
Associated Press

WASHINGTON — The House yesterday approved compromise legislation permitting three-year jail terms for journalists or scholars who deliberately expose the identities of American spies.

The vote on the Intelligence Identities Protection Act was 315-32. The measure now goes to the Senate, where approval is almost certain. The measure has the backing of the Reagan administration.

For seven years, Congress has been trying to protect American spies from exposure to terrorists while preserving the constitutionally guaranteed rights of a free press. Critics of the measure that was passed yesterday predicted that it would be struck down by the courts as unconstitutional.

"For the first time in American history, the publication of information obtained lawfully from publicly available sources would be made illegal," said Rep. Don Edwards (D., Calif.).

A supporter of the bill, Rep. Henry Hyde (R., Ill.), countered: "We often ask our covert agents — and their sources of intelligence — to risk their lives in the national interest. The very least we can do is protect their identities from assassins and terrorists."

Both the House and Senate Judiciary Committees approved bills that would have limited prosecution of any journalist or scholar to those who specifically intended to "impair or impede" U.S. intelligence activities.

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CHICAGO TRIBUNE
4 JUNE 1982

House OKs bill protecting spies

WASHINGTON (UPI)—The House Thursday passed legislation providing penalties of up to 10 years in prison and \$50,000 fines for those who publicly disclose the identities of covert U.S. intelligence agents, informants and sources.

The Senate also is expected to approve the legislation quickly and send it to the White House.

But a court test is certain. Several members, led by Rep. Don Edwards (D., Calif.), charged the bill is clearly unconstitutional despite efforts of the House Intelligence Committee to narrow its scope.

The compromise bill, approved by a 315-32 vote, was drafted by a House-Senate conference committee from differing versions passed earlier by both houses. In the only major change, the committee dropped a Federal provision protecting former agents.

EDWARDS CHARGED the bill makes

the mere publication of names a crime even if the names are obtained from unclassified sources.

But Rep. Edward Boland (D., Mass.), chairman of the House Intelligence Committee, said it is not intended to punish the legitimate news media or to trample on constitutional rights. He said it was drawn to protect agents "while treading as lightly as possible on the 1st Amendment."

The legislation was sparked in part by the case of renegade former CIA agent Philip Agee, who wrote a book revealing the names of former agents and secret agency operations.

Government employees with access to classified information who reveal agent names would receive the stiffest penalties under the bill, fines of up to \$50,000 and 10 years in jail.

LESSER PENALTIES of up to \$15,000 in fines and three years in jail would be

imposed on those outside the government who act "in the course of a pattern of activities intended to identify and expose covert agents and with reason to believe that such activities would impair or impede the intelligence activities of the United States."

Boland said this section was designed to penalize those who consistently publish the names of agents in an effort to harm U.S. intelligence. He said it would not penalize newspapers, radio or television stations that reveal the names of agents as an incidental part of their coverage.

The committee report gives several examples of situations that would not be covered by the bill, including coverage of any CIA involvement in the Watergate scandal.

Other exceptions include efforts of certain organizations to discover the names of agents who might have infiltrated those organizations.